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# A BILL FOR AN ACT

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RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The purpose of this Act is to clarify the  
2 offense of trespassing on public housing property.

3       SECTION 2. Chapter 356D, Hawaii Revised Statutes, is  
4 amended by adding a new section to part I to be appropriately  
5 designated and to read as follows:

6       "§356D   Closed to the public. (a) Any area within a  
7 housing project that is not a public street, road, highway,  
8 sidewalk, or county or state bus stop, shall be closed to  
9 members of the public where signs are displayed that read:  
10 "Closed to the Public - No Trespassing", or a substantially  
11 similar message is displayed; provided that the signs shall  
12 contain letters not less than two inches in height and the signs  
13 are placed at reasonable intervals along the boundary line of  
14 the areas that are closed to the public in a manner and position  
15 to be clearly noticeable from outside the boundary line.

16       (b) For the purpose of this section:



1       "Housing project" means a public housing project, elder or  
2       elderly housing, as defined in section 356D-1, or state low-  
3       income housing project, as defined in section 356D-51.

4       "Member of the public" does not include:

5       (1) A tenant, as defined in section 356D-1 or section  
6       356D-51, who leases a unit in the subject housing  
7       project;

8       (2) A household member, as defined in section 356D-1, who  
9       occupies a unit in the subject housing project as a  
10       household member;

11       (3) A guest of a tenant of the subject housing project;

12       (4) A director, officer, employee, agent, representative,  
13       or contractor of the authority who is acting within  
14       the director, officer, employee, agent,  
15       representative, or contractor's respective scope of  
16       employment or work, or is discharging an official duty  
17       for the authority;

18       (5) An employee, agent, or contractor of the United States  
19       Department of Housing and Urban Development who is  
20       acting within the scope of the employee, agent, or  
21       contractor's respective employment or work;



(6) A person carrying out governmental duties including but not limited to law enforcement and emergency medical services;

(7) A person participating in a program authorized by the authority; and

(8) A person engaging in constitutionally protected door-to-door communications or pamphleteering between 9:00 a.m. and 8:00 p.m."

SECTION 3. Section 708-814, Hawaii Revised Statutes, is amended to read as follows:

**"§708-814 Criminal trespass in the second degree.** (1) A person commits the offense of criminal trespass in the second degree if:

(a) The person knowingly enters or remains unlawfully in or upon premises that are enclosed in a manner designed to exclude intruders or are fenced;

(b) The person enters or remains unlawfully in or upon commercial premises after a reasonable warning or request to leave by the owner or lessee of the commercial premises, the owner's or lessee's authorized agent, or a police officer; provided that



1           this paragraph shall not apply to any conduct or  
2           activity subject to regulation by the National Labor  
3           Relations Act.

4                   For the purposes of this paragraph, "reasonable  
5           warning or request" means a warning or request  
6           communicated in writing at any time within a one-year  
7           period inclusive of the date the incident occurred,  
8           which may contain but is not limited to the following  
9           information:

10           (i)   A warning statement advising the person that the  
11           person's presence is no longer desired on the  
12           property for a period of one year from the date  
13           of the notice, that a violation of the warning  
14           will subject the person to arrest and prosecution  
15           for trespassing pursuant to section (1)(b), and  
16           that criminal trespass in the second degree is a  
17           petty misdemeanor;

18           (ii)   The legal name, any aliases, and a photograph, if  
19           practicable, or a physical description, including  
20           but not limited to sex, racial extraction, age,  
21           height, weight, hair color, eye color, or any



1 other distinguishing characteristics of the  
2 person warned;

3 (iii) The name of the person giving the warning along  
4 with the date and time the warning was given; and

5 (iv) The signature of the person giving the warning,  
6 the signature of a witness or police officer who  
7 was present when the warning was given and, if  
8 possible, the signature of the violator;

9 (c) The person enters or remains unlawfully on  
10 agricultural lands without the permission of the owner  
11 of the land, the owner's agent, or the person in  
12 lawful possession of the land, and the agricultural  
13 lands:

14 (i) Are fenced, enclosed, or secured in a manner  
15 designed to exclude intruders;

16 (ii) Have a sign or signs displayed on the unenclosed  
17 cultivated or uncultivated agricultural land  
18 sufficient to give notice and reading as follows:  
19 "Private Property". The sign or signs,  
20 containing letters not less than two inches in  
21 height, shall be placed along the boundary line



1 of the land and at roads and trails entering the  
2 land in a manner and position [as] to be clearly  
3 noticeable from outside the boundary line; or

4 (iii) At the time of entry, are fallow or have a  
5 visible presence of livestock or a crop:

6 (A) Under cultivation;

7 (B) In the process of being harvested; or

8 (C) That has been harvested;

9 (d) The person enters or remains unlawfully on unimproved  
10 or unused lands without the permission of the owner of  
11 the land, the owner's agent, or the person in lawful  
12 possession of the land, and the lands:

13 (i) Are fenced, enclosed, or secured in a manner  
14 designed to exclude the general public; or

15 (ii) Have a sign or signs displayed on the unenclosed,  
16 unimproved, or unused land sufficient to give  
17 reasonable notice and reads as follows: "Private  
18 Property - No Trespassing", "Government Property  
19 - No Trespassing", or a substantially similar  
20 message; provided that the sign or signs shall  
21 contain letters not less than two inches in



1 height and shall be placed at reasonable  
2 intervals along the boundary line of the land and  
3 at roads and trails entering the land in a manner  
4 and position [as] to be clearly noticeable from  
5 outside the boundary line.

6 For the purposes of this paragraph, "unimproved  
7 or unused lands" means any land upon which there is no  
8 improvement; construction of any structure, building,  
9 or facility; or alteration of the land by grading,  
10 dredging, or mining that would cause a permanent  
11 change in the land or that would change the basic  
12 natural condition of the land. Land remains  
13 "unimproved or unused land" under this paragraph  
14 notwithstanding minor improvements, including the  
15 installation or maintenance of utility poles, signage,  
16 and irrigation facilities or systems; minor  
17 alterations undertaken for the preservation or prudent  
18 management of the unimproved or unused land, including  
19 the installation or maintenance of fences, trails, or  
20 pathways; maintenance activities, including forest  
21 plantings and the removal of weeds, brush, rocks,



1 boulders, or trees; and the removal or securing of  
2 rocks or boulders undertaken to reduce risk to  
3 downslope properties; or

4 (e) ~~[The person enters or remains unlawfully in or upon~~  
5 ~~the premises of any public housing project or state~~  
6 ~~low income housing project, as defined in section~~  
7 ~~356D-1, 356D-51, or 356D-91, after a reasonable~~  
8 ~~warning or request to leave by housing authorities or~~  
9 ~~a police officer, based upon an alleged violation of~~  
10 ~~law or administrative rule; provided that a warning or~~  
11 ~~request to leave shall not be necessary between 10:00~~  
12 ~~p.m. and 5:00 a.m. at any public housing project or~~  
13 ~~state low income housing project that is closed to the~~  
14 ~~public during those hours and has signs, containing~~  
15 ~~letters not less than two inches in height, placed~~  
16 ~~along the boundary of the project property, at all~~  
17 ~~entrances to the property, in a manner and position to~~  
18 ~~be clearly noticeable from outside the boundary of the~~  
19 ~~project property and to give sufficient notice that~~  
20 ~~the public housing project or state low income housing~~





~~project is closed to the public during these hours.]~~

The person is a non-tenant:

(i) Who is a member of the public, as defined in subsection (2), and who enters or remains without authorization in or upon any area of a housing project that is closed to the public as set forth in section 356D- , and has signage as required by section 356D- ; or

(ii) Who enters or remains unlawfully in or upon any area of a housing project, that is closed to the public as set forth in section 356D- , after a reasonable warning or request to leave by the housing authority or a police officer, based upon an alleged violation of law or administrative rule, notwithstanding any authorization provided by a tenant of the subject housing project to the person.

~~[(2) As used in this section, "housing authorities" means resident managers or managers, tenant monitors, security guards, or others officially designated by the Hawaii public housing authority.]~~



1           As used in this paragraph:

2           "Authorization" means permission to enter the subject  
3           housing project, which is given to a non-tenant either by a  
4           tenant of the subject housing project, or housing  
5           authority.

6           "Housing authority" means a property manager, resident  
7           manager, tenant monitors, security guards, or others  
8           officially designated by the Hawaii public housing  
9           authority, for the subject housing project.

10           "Housing project" means a public housing project,  
11           elder or elderly housing, as defined in section 356D-1, or  
12           state low-income housing project, as defined in section  
13           356D-51.

14           "Member of the public" does not include:

15           (i) A tenant as defined in section 356D-1 or section  
16           356D-51 who leases a unit in the subject housing  
17           project;

18           (ii) A household member as defined in section 356D-1  
19           who occupies a unit in the subject housing  
20           project as a household member;



- 1           (iii) A director, officer, employee, agent,  
2           representative, or contractor of the Hawaii  
3           public housing authority who is acting within the  
4           director, officer, employee, agent,  
5           representative, or contractor's respective scope  
6           of employment or work, or is discharging an  
7           official duty for the authority;
- 8           (iv) An employee, agent, or contractor of the United  
9           States Department of Housing and Urban  
10          Development who is acting within the employee,  
11          agent, or contractor's respective scope of the  
12          employment or work;
- 13          (v) A person carrying out governmental duties  
14          including but not limited to law enforcement and  
15          emergency medical services;
- 16          (vi) A person participating in a program authorized by  
17          the Hawaii public housing authority; and
- 18          (vii) A person engaging in constitutionally protected  
19          door-to-door communications and pamphleteering  
20          between 9:00 a.m. and 8:00 p.m.



1           "Non-tenant" means a person who is not a tenant as  
2           defined in section 356D-1 or section 356D-51, and not a  
3           household member as defined in section 356-1 at the subject  
4           housing project.

5           "Reasonable warning or request" means a warning or  
6           request communicated in writing at any time within a one-  
7           year period inclusive of the date the incident occurred,  
8           which may contain but is not limited to the following  
9           information:

10           (i) A warning statement advising the person that the  
11           person's presence is no longer desired in or on  
12           the areas of the subject housing project that are  
13           closed to the public for a period of one year  
14           from the date of the notice, that a violation of  
15           the warning will subject the person to arrest and  
16           prosecution for trespassing pursuant to  
17           subsection (1)(e), and that criminal trespass in  
18           the second degree is a petty misdemeanor;

19           (ii) The legal name, any aliases, and a photograph, if  
20           practicable, or a physical description, including  
21           but not limited to sex, racial extraction, age,



1                   height, weight, hair color, eye color, or any  
2                   other distinguishing characteristics of the  
3                   person warned;

4           (iii) The name of the person giving the warning along  
5           with the date and time the warning was given;

6           (iv) The signature of the person giving the warning,  
7           and, if possible, the signature of the violator;  
8           and

9           (v) The signature of a witness or police officer who  
10           was present when the warning was given pursuant  
11           to subsection (1)(e).

12           (3) Criminal trespass in the second degree is a petty  
13 misdemeanor."

14           SECTION 4. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17           SECTION 5. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19           SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Hawaii Public Housing Authority; Trespass

**Description:**

Provides that all Hawaii Public Housing Authority housing projects are closed to the public and amends criminal trespass in the second degree to permit the prosecution of an unauthorized entry or a violation of a written prohibition to enter into the subject housing projects. Clarifies requirements for signage notifying trespassers of illegal entry. (HB767 HD2)

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